

STATE BUILDING CODE TECHNICAL REVIEW BOARD
MEETING

September 16, 2016

RICHMOND, VIRGINIA

Members Present

Mr. J. Robert Allen, Chairman
Mr. Matthew Arnold
Mr. W. Keith Brower
Mr. J. Daniel Crigler
Mr. James R. Dawson
Mr. John H. Epperson, PE
Mr. Joseph A. Kessler, III
Mr. Eric Mays
Ms. Joanne D. Monday
Ms. Patricia S. O'Bannon

Members Absent

Mr. Vince Butler
Mr. Alan D. Givens
Mr. W. Shaun Pharr, Esq.

Call to Order	The meeting of the State Building Code Technical Review Board ("Review Board") was called to order by the Chairman at approximately 10.00 a.m.
Roll Call	The attendance was established by the Secretary, Alan W. McMahan, Secretary, and constituted a quorum. Mr. Justin I. Bell, Assistant Attorney General in the Office of the Attorney General, was present and serving as the Board's legal counsel.
Approval of Minutes	Ms. Monday moved to approve the revised minutes of the May 20, 2016 meeting as presented in the Review Board members' agenda package. The motion was seconded by Mr. Crigler and passed unanimously with Messrs. Brower, Dawson, Mays and Ms. O'Bannon abstaining. Subsequently, Mr. Epperson moved to approve the amended minutes of the July 15, 2016 meeting as presented in the Review Board members' agenda package. The motion was seconded by Mr. Mays and passed unanimously with Mr. Crigler, Mr. Kessler, and Ms. Monday abstaining.
Public Comment	The Chairman opened the floor for public comment. The Secretary reported that no one was preregistered. The Chairman closed the public comment period.

Final Orders

Appeal of Bradley Pollack: Appeal No. 15-20:

After review and consideration, Mr. Dawson moved to approve the final order as presented in the Review Board members' agenda package. The motion was seconded by Mr. Brower and passed with Mr. Crigler, Mr. Kessler, and Ms. Monday abstaining.

Appeal of Lien Tran & Anh Nguyen: Appeal No. 15-21:

After review and consideration, Mr. Epperson moved to approve the final order as presented in the Review Board members' agenda package. The motion was seconded by Ms. O'Bannon and passed with Mr. Crigler, Mr. Kessler, and Ms. Monday abstaining.

Interpretations

An interpretation request from the City of Richmond Fire Marshal's Office was considered concerning lighter than air vehicle fuel systems in buildings. After discussion, Mr. Dawson moved that the Review Board decline to provide an interpretation because the request was unclear and because it did not ask for how the code is applied. The motion was seconded by Mr. Crigler and passed unanimously. No one was present from the Fire Marshal's Office to offer comment concerning the interpretation request.

New Business

Appeal of Perry Smith: Appeal No. 16-3:

A preliminary hearing convened with the Chairman serving as the presiding officer. The appeal concerned an unfinished addition to a home at 353 Red Lane in the City of Salem, owner by Mr. Smith. The City of Salem's building official took Mr. Smith before the City's Board of Building Code Appeals (local appeals board) for a violation of § 18-38 of the Code of the City of Salem. The city's action followed the expiration of Mr. Smith's building permit which was issued in July of 2015. The local appeals board heard the case (without an appeal by Mr. Smith) and ruled to affirm the building official's decision and required Mr. Smith to obtain a demolition permit within 30 days and to complete demolition of the structure within 90 days. Mr. Smith then filed an appeal of the local appeal

Appeal of Perry Smith; Appeal No. 16-3 (cont'd.):

board's decision with the Review Board.

In processing the appeal, Review Board staff conducted an informal fact-finding conference with the Mr. Smith and the building official for the City of Salem. During the conference, Review Board staff provided the parties with a copy of a previous Review Board decision addressing issues similar to those in Mr. Smith's appeal. Review Board staff then compiled and organized the record in the appeal scheduled the preliminary hearing as a mechanism for the consideration of whether the issues were appealable.

The following person was sworn in and given the opportunity to present testimony:

Donald Hale, neighbor to Mr. Smith
Perry Smith, property owner

No exhibits were submitted by the parties to supplement the documents in the Review Board members' agenda package.

After testimony concluded, the Chairman closed the preliminary hearing and stated a decision from the Review Board members would be forthcoming and the deliberations would be conducted in open session. It was further noted that a final order reflecting the decision would be considered at a subsequent meeting and, when approved, would be distributed to the parties and would contain a statement of further right of appeal.

Decision: Appeal of Perry Smith; Appeal No. 16-3:

After deliberation, Mr. Mays moved that the appeal is moot due to lack of jurisdiction because the Mr. Smith's appeal is of a city ordinance and not the Virginia Construction Code (VCC). The motion

Decision: Appeal of Perry Smith; Appeal No. 16-3 (cont'd):

was seconded by Mr. Brower and passed unanimously.

Appeal of Christopher & Jillian Kiely; Appeal No. 16-1:

Mr. Mays informed the Chairman of his recusal from the proceedings because he was the building official for the Town of Occoquan prior to the appeal, he had discussed the issue with the town's building official, and because the Prince William County Board of Building Code Appeals hears appeals of decisions made by the town's building official.

An appeal hearing convened with the Chairman serving as the presiding officer. The appeal concerned the refusal of the Town of Occoquan' building official to issue a plumbing permit under the VCC to the Kiely's for the removal of a sewer lateral on their property.

The following persons were sworn in and given the opportunity to present testimony:

Christopher Kiely, property owner
Joseph Barbeau, representing the Town of Occoquan
Lance Houghton, adjacent property owner

Also present were:

Martin Crim, Esq., counsel for the Town of Occoquan
Jason Hickman, Esq., counsel for Lance Houghton

No exhibits were submitted by the parties to supplement the documents in the Review Board members' agenda package.

After testimony concluded, the Chairman closed the hearing and stated a decision from the Review Board members would be forthcoming and the deliberations would be conducted in open

Appeal of Christopher & Jillian Kiely: Appeal No. 16-1 (cont'd.):

session. It was further noted that a final order reflecting the decision would be considered at a subsequent meeting and, when approved, would be distributed to the parties and would contain a statement of further right of appeal.

Decision: Appeal of Christopher & Jillian Kiely: Appeal No. 16-1:

After deliberation, Mr. Dawson moved to uphold the building official's and the local appeal board's decision to deny the plumbing permit because its approval would have created a violation of Section 110.1 of the Virginia Construction Code (VCC). The motion was seconded by Brower and the motion failed. Mr. Mays was not present. Ms. O'Bannon then moved to overturn the building official's decision to not issue the plumbing permit and the local appeal board's decision to uphold that decision.

The motion further directed the building official to grant the plumbing permit to the Kielys for the removal of the sewer lateral. The motion was seconded by Ms. Monday and passed with Messrs. Dawson and Brower voting in opposition. Mr. Mays was not present. Subsequently, Mr. Kessler moved to amend Ms. O'Bannon motion to require the plumbing permit be issued within thirty days. The motion was not seconded; therefore, the motion failed.

Appeal of Sabrina Anderson: Appeal No. 16-5:

An appeal hearing convened with the Chairman serving as the presiding officer. The appeal concerned the City of Fredericksburg building official's acceptance of an engineered product offered by a homebuilder to correct foundation cracks and settlement in a home it constructed.

The following persons were sworn in and given the opportunity to present testimony:

Sabrina Anderson, property owner
Jeffrey Bragg, for the City of Fredericksburg

Appeal of Sabrina Anderson: Appeal No. 16-5 (cont'd.):

Adam Hassermann, with Bryton Homes
Eric Turner, with Ms. Anderson
Graham Weigle, with Bryton Homes

Also present were:

Ken Hardt, Esq., counsel for Bryton Homes
Ted Brenner, Esq., counsel for Smith Run Development
Joel Morgan, Esq., counsel for Smith Run Development

No exhibits were submitted by the parties to supplement the documents in the Review Board members' agenda package.

After testimony concluded, the Chairman closed the hearing and stated a decision from the Review Board members would be forthcoming and the deliberations would be conducted in open session. It was further noted that a final order reflecting the decision would be considered at a subsequent meeting and, when approved, would be distributed to the parties and would contain a statement of further right of appeal.

Decision: Appeal of Sabrina Anderson: Appeal No. 16-5:

After deliberation, Mr. Mays moved to overturn the building official's decision and the decision of the local appeal board to accept the use of carbon fiber reinforced polymer bands on Anderson's foundation, recognizing the need for additional soil testing under the home's footings, as recommended in the report submitted by ECS, a geotechnical engineering company. The motion was seconded by Mr. Arnold and passed unanimously.

Secretary's Report

The Chairman notified the Review Board members of Mr. Epperson's resignation from the Review Board effective December 31, 2016. Mr. Bell updated the Review Board members on pending circuit court

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appeals of past decisions. Mr. McMahan informed the Review Board members that next scheduled meeting would be in November of 2016.

Adjournment

There being no further business, the meeting was adjourned by motion of Mr. Mays at approximately 3:35 p.m.

Approved: November 10, 2016

/S/

Chairman, State Building Code Technical Review Board

/S/

Secretary, State Building Code Technical Review Board